Dutch Banking Association's Reaction to the EC consultation on review of the EU macro-prudential policy framework

The Dutch Banking Association would like to thank the European Commission for the possibility to respond to the consultation on the review of the EU macro-prudential policy framework. Our reaction supplements the response of the European Banking Federation, which we fully support. In our reaction we will specifically focus on the issue of the Systemic Risk Buffer.

Question 1: Do you consider the degree of coordination between the different authorities in the current framework (i.e. ESRB, national macro-prudential authorities, Commission, Council, etc.) appropriate? [Please rank your answer from 1 (fully appropriate) to 5 (not appropriate at all), and explain your scoring.]

- **Answer: [4]** The Banking Union has fundamentally changed the way supervision is being conducted in the EU and the Eurozone with a much stronger role of the ECB/SSM. The review of the macro-prudential framework is in our eyes an opportunity to further clarify the division of competences between on the one hand the ECB/SSM and ESRB and on the other hand national authorities with the aim to increase transparency and coherence within the Eurozone. In this context the ECB should be given a stronger mandate to coordinate, provide guidance and set out methodologies on macro-prudential measures to the national supervisory authorities, especially for those buffers where there is national discretion. Clear substantiation of the reasons for applying the buffer and the height of it are necessary to support consistency and convergence within the Eurozone. The combination of better coordinated European methodologies and the specific market knowledge of national supervisors will allow for more transparency and predictability. This will benefit the pricing of risk and provide for a level playing field between banks and other financial institutions located in the Eurozone.

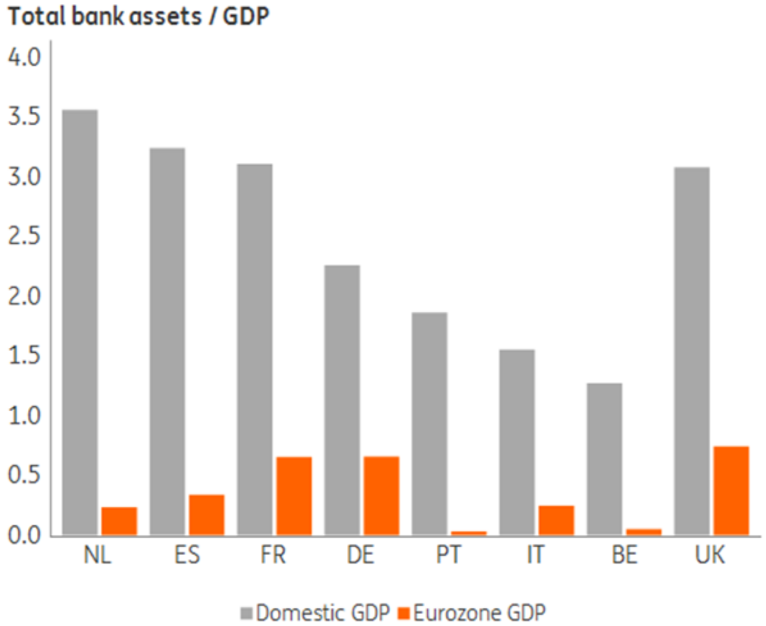
Question 9: Do you see the need to better frame either the focus (targeted risks) or the scope of the SRB (i.e. applicability to the entire stock only or also to subsets of exposures)? If so, please explain your answer.

- **Answer:** Yes, the current size of the macro-prudential buffers in the Netherlands are based mainly on the indicator of bank size to national GDP. The size and use is determined by the Dutch Central Bank (DNB). In the Eurozone the three largest Dutch banks are, to our knowledge, the only banks subject to a full 3% SRB buffer. By doing so, Dutch banks face significantly higher capital requirements than other Eurozone banks that score higher on the balance sheet to GDP ratio, but that are headquartered in another country. This is illustrated by the chart below.

- Dutch banks compete with other Eurozone banks, which makes it essential that the regulatory requirements are similar throughout the Eurozone. The Systemic Risk Buffer in its current form does – in our view - not contribute to achieving this goal, as it affects a limited set of banks in a smaller Member State. Also, the SRB requirement is very substantial compared to the level of the minimum capital requirement (3% CET1 vs 4,5% CET1).

- We note that the Systemic Risk Buffer was intended to be applied to either the financial sector as a whole or to a subsector, e.g. mortgage banks, in order to avoid the distortion of the (national) level playing field. Imposing a SRB requirement to selected institutions only, provides an advantage to other institutions. If a macro-prudential authority is of the opinion that the sheer size of certain banks poses a systemic risk to the economy, these institutions can (and should) be subjected to an O-SII buffer (CRD article 131). Although not applied as such in the Netherlands, the Systemic Risk Buffer can be imposed without a phase-in framework as is required for the G-SII or O-SII buffer. Given the (potentially) high level of the SRB we believe that the regulatory framework should allow for a proper phase-in period.

- The CRD requires the competent authority or the designated authority to include a substantiation of the proposed level of the SRB in its notification to the EC, the ECB and the ESRB. Article 133 (11)(e) states this as follows: "*justification for why none of the existing measures in this Directive or in Regulation (EU) No 575/2013, excluding Articles 458 and 459 of that Regulation, alone or in combination, will be sufficient to address the identified macro-prudential or systemic risk taking into account the relative effectiveness of those measures;"* The experience of Dutch banks shows that there requirements were not met. The CRD4 states that an SRB may only be imposed after all existing instruments, including pillar two measures, have been exhausted. No evidence has been provided, which substantiates that pillar two measures have been used to the maximum extent. To our knowledge, none of the three Dutch banks have been requested to address risk caused by the size of the bank to GDP or interconnectedness in the Dutch financial system either via pillar 2 or otherwise.



Total consolidated assets of bank headquartered in respective countries. Excludes foreign subsidiaries and branches. Source: ECB consolidated banking data

Question 10: Should the SRB be explicitly defined as either an activity based or an institution specific tool? Please explain your answer.

- **Answer:** We would like to have more clarity on the methodology and substantiation of Systemic Risk Buffer (SRB). We would prefer the SRB to be defined as an activity based rather than an institution specific tool. However, it is important to prevent duplication with other measures and to consider new legislation coming into force, such as the EU resolution regime. Furthermore, it is important to have sufficient coordination with micro-prudential

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measures that are in place and guarantee a consistent application that ensures a level playing field in order to avoid activities shifting towards non-banks.

Question 21: What adjustments, if any, would you suggest for the notification and activation requirements for the SRB?

- **Answer:** The notification and activation requirements for the SRB should be altered. In our view it is not sufficient to have only a notification requirement up to 3%. Authorisation should already be a requirement at lower levels as a 3% additional capital requirement has a huge impact on a financial institution. The current application of the Systemic Risk Buffer has – in some countries – made it to an extension of the O-SII-buffer. Where the SRB was initially meant to be country- or sector-specific, we see countries where it has been made bank-specific. Introduction and increases of the SRB should provide for sufficient time for banks to adjust their strategy accordingly. We suggest that increases should be announced at least one year in advance, in line with the Counter Cyclical Buffer (CCB) guidelines.